



Privacy & Data Protection

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Headlines:

- ICO produces new Guide on Data Protection, p.17
- Expert recommends acting now over cookie law, p.18
- Queen gets tough on paparazzi in royal row, p.19
- US sued over failure to specify use of data, p.20

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Graham to spot check private sector at will?

The UK Information Commissioner has demanded unfettered powers to carry out spot-checks on private companies to verify their data handling processes.

Currently, the Commissioner is empowered to enter premises with consent or with a warrant, but in practice these have rarely been issued. The new Coroners and Justice Bill (coming into force in April 2010) increases the Commissioner's powers by providing for automatic assess to premises of public bodies upon service of an Assessment Notice.

Now, the Commissioner, also the Chief Executive of the ICO as result of a recent restructuring, is asking for that power to be extended to the private sector.

The latest demands are in line with Mr Graham's demands for tougher penalties for data protection breaches. The Commissioner recently presented a "dossier as long as your arm" to the government showing a multitude of breaches committed by the police and other public bodies under section 55 of the Data Protection Act (offence for unlawful obtaining/disclosure of data).

The Commissioner said of the dossier that he hoped it represented the hard evidence needed to force the government to give courts the power to impose two-year prison sentences for the most serious misuse of protected information. Under the current law, those who breach the Data Protection Act can only be fined.

Mark Watts, Partner at Bristows, told *Privacy & Data Protection*:

"Early signs are that Christopher Graham may want to pursue

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ICO tells employers — don't be scared to screen staff

A senior official from the UK Information Commissioner's Office has said that employers are not vetting staff properly because they are confused about data protection laws.

The advice from Assistant Information Commissioner, Jonathan Bamford, was recently given as part of a briefing held by the Metropolitan Police and the Serious Organised Crime Agency in partnership with security network PREFIT.

Mr Bamford told the meeting that "employers sometimes mistakenly use the Data Protection Act ('DPA') as an excuse to not screen staff when they could do, as long as they do it properly. I call that 'the data protection duck-out'".

Employment Specialist, Gabriella Wright, said "staff screening may be undertaken provided that the organisation has a justifiable reason for doing it, and provided that, in obtaining and

using personal information through screening, the organisation acts within the data protection rules". As for any type of processing, screening must comply with the Eight Data Protection Principles.

Gabriella Wright said that "screening must be for a specific and justifiable purpose — it will be helpful for the organisation to show that an 'adverse impact

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